



TENNESSEE REGULATORY AUTHORITY

**460 James Robertson Parkway
Nashville, Tennessee 37243-0505**

NOTICE OF FILING

DOCKET: 97-01181

IN RE: Small Telephone Companies Tariff Filings Regarding Reclassification of Pay Telephone Service as Required by Federal Communications Commission (FCC) Docket 96-128

DATE: September 26, 2002

Background

Pursuant to § 276 of the Telecommunications Act of 1996 (the "Act"), the Federal Communications Commission ("FCC") issued a series of orders for the implementation of payphone reclassification and compensation in its Docket No. 96-128.¹ The FCC Payphone Orders mandated state commissions to enforce new rules, which, among other things, require telephone companies to file tariffs with state commissions that reclassify their payphones and remove subsidies to payphone operations from other classes of services.

Accordingly, during January, February, and March of 1997 all incumbent local exchange carriers ("ILECs") operating in Tennessee filed tariffs and revised tariffs to reclassify their payphone operations as mandated by the Act and the FCC Payphone Orders. These tariff filings were met with opposition from the Tennessee Payphone Owners Association ("TPOA"), AT&T of the South Central States, Inc. ("AT&T"), MCI Telecommunications Corporation ("MCI") (now WorldCom, Inc.), and the Consumer Advocate and Protection Division of the Office of the Attorney General and Reporter ("Consumer Advocate"), all of which filed petitions to intervene.

¹ See, e.g., *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128, FCC Docket No. 96-388, 11 FCC Rcd 20,541 (Sept. 20, 1996) (Report and Order); *Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128, FCC Docket No. 96-439, 11 FCC Rcd 21,233 (Nov. 8, 1996) (Order on Reconsideration) (hereinafter "FCC Payphone Orders").

In April and May of 1997, the Authority entered orders which: (1) granted the petitions to intervene;² (2) approved the payphone reclassification tariffs filed by the ILECs pending the outcome of a contested case; and (3) opened a combined docket to proceed with the contested case. The number assigned to the combined docket was 97-00409.

At a Pre-Hearing Conference held on May 29, 1997, the Consumer Advocate requested that the Authority bifurcate Docket No. 97-00409 such that that docket would proceed with BellSouth Telecommunications, Inc. ("BellSouth"), United Telephone-Southeast, Inc. ("UTSE"), and Citizens Telecommunications Company of Tennessee and Citizens Telecommunications Company of the Volunteer State (collectively "Citizens"). The Consumer Advocate further requested that the Authority open another docket for the remaining, smaller, ILECs (the "independent LECs").³ Director H. Lynn Greer, Jr., the Pre-Hearing Officer, ordered the bifurcation based on the fact that the expense of preparing cost studies for Docket No. 97-00409 would be too great for the independent LECs.⁴ The Pre-Hearing Officer memorialized this decision in the *Order Establishing a Separate Docket for the Smaller Companies* entered on June 6, 1997. The number assigned to the small company payphone docket was 97-01181.

Thereafter, by agreement of the parties the payphone dockets remained inactive for over two years until March 21, 2000 when the TPOA filed a letter written to the Pre-Hearing Officer requesting that the Pre-Hearing Officer reconvene the proceeding and set a procedural schedule. The Pre-Hearing Officer filed an order on July 21, 2000, in which the Pre-Hearing Officer reconvened Docket No. 97-00409 and asked the parties in Docket Nos. 97-00409 and 97-01181 to file comments on three options concerning how to proceed with the two dockets.⁵ The three options presented called for either: (1) combining the dockets; (2) maintaining separate proceedings; or (3) maintaining separate proceedings with the parties in Docket No. 97-01181 intervening in Docket No. 97-00409 for the limited purpose of commenting on the proposed rates. After considering the comments of the parties, the Pre-Hearing Officer filed an order on July 31, 2000.⁶ In his order, the Pre-Hearing Officer found that none of the parties had provided a compelling reason to overturn the June 6, 1997 order separating the dockets. In addition, the Pre-Hearing Officer concluded that the parties to Docket No. 97-01181 should be spared the expense associated with filing cost studies as required in Docket No. 97-00409. The Pre-Hearing Officer concluded that the third option of maintaining separate proceedings and allowing the independent LECs to intervene in Docket No. 97-00409 for the limited purpose of commenting on the proposed rates was the best alternative for proceeding with the two dockets.

² On August 17, 2000, AT&T withdrew its intervention.

³ The independent LECs included: Ardmore Telephone Co.; the Century companies consisting of CenturyTel of Adamsville, CenturyTel of Claiborne, and CenturyTel of Ooltewah-Collegedale; Loretto Telephone Co.; Millington Telephone Co.; the TDS companies consisting of Concord Telephone Exchange, Inc., Humphreys County Telephone Co., Tellico Telephone Co., and Tennessee Telephone Co.; the TEC companies consisting of Crockett Telephone Co., Peoples Telephone Co., and West Tennessee Telephone Co.; and United Telephone Co.

⁴ The terms of the former Directors of the Authority, Chairman Sara Kyle and Directors H. Lynn Greer, Jr. and Melvin J. Malone, expired on June 30, 2002. Chairman Kyle was re-appointed and commenced a new term as Director of the Authority on July 1, 2002. Pursuant to the requirements of the amended provisions of Tenn. Code Ann. § 65-1-204, a three-member voting panel consisting of Chairman Kyle and Directors Deborah Taylor Tate and Ron Jones was randomly selected and assigned to Docket No. 97-01181.

⁵ See *Order of Pre-Hearing Officer Denying Motion for Interim Relief, Requesting Comments from Parties to Docket 97-00409 and Setting a Procedural Schedule*, Docket No. 97-00409 (July 21, 2000).

⁶ See *Order of Pre-Hearing Officer Continuing Separation of the Docket No. 97-01181, Granting the Tennessee Small Local Exchange Companies Coalition's Petition to Intervene in Docket No. 97-00409*, Docket Nos. 97-00409 and 97-01181 (July 31, 2000).

Thereafter, Docket No. 97-00409 proceeded to its conclusion. BellSouth, UTSE, Citizens, and the TPOA filed cost studies and testimony. The Directors heard oral arguments in Docket No. 97-00409 on October 25, 2000. Based on the evidentiary record, the Authority established compliant payphone rates for BellSouth and Citizens at the Authority Conference held on December 19, 2000. The Authority memorialized this decision in the *Interim Order* entered on February 1, 2001.

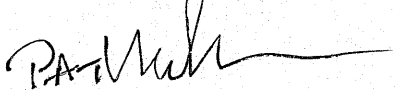
Thereafter, Docket No. 97-00409 continued for the purpose of establishing compliant payphone rates for UTSE. As ordered by the Authority, UTSE filed additional cost studies, and both UTSE and TPOA filed a series of discovery-related filings. On May 6, 2002, the parties filed the *Proposed Payphone Settlement Between TPOA and United* ("Payphone Settlement"). At the Authority Conference held on May 21, 2002, the Authority considered and approved the Payphone Settlement, including the UTSE payphone rates proposed therein. The Authority memorialized this decision in the *Final Order* entered on June 12, 2002. Hence, the proceedings in Docket No. 97-00409 are now concluded before the Authority.

The purpose of separating the payphone proceeding into a large company docket and a small company docket was to spare the independent LECs of the expense of preparing payphone-specific cost studies. Now that Docket No. 97-00409 has been concluded before the Authority, any benefit that may be achieved by completing the large company docket prior to taking up the small company docket has been realized. Accordingly, at the Authority Conference held on September 9, 2002, the Authority appointed Director Pat Miller to replace former Director H. Lynn Greer, Jr. as the Pre-Hearing Officer in Docket No. 97-01181 for the purpose of reconvening the docket and preparing this matter for decision by the Authority.

Request for Filing

The purpose of this notice is to reconvene the small company payphone docket by requesting each independent LEC that is a party to Docket No. 97-01181 to file its comments and rate proposals for the provisioning of payphone access services to payphone service providers. Such comments and rate proposals, including supporting justification for rates, shall be filed with the Authority no later than **Monday, October 14, 2002**. Supporting justification may include the filings submitted in support of the payphone rates approved by the Authority in Docket No. 97-00409. Any party to Docket No. 97-01181 that desires to respond to the comments and rate proposals filed by the independent LECs shall file its reply comments no later than **Thursday, October 24, 2002**. The Authority encourages the parties to enter into settlement agreements that are consistent with the Authority's prior payphone decisions and applicable payphone reclassification law. Any such agreements may be submitted for the Authority's consideration at any time and, moreover, may preclude the need for additional filings.

FOR THE TENNESSEE REGULATORY AUTHORITY:



Director Pat Miller, Pre-Hearing Officer

cc: Parties of Record
(original in docket file)